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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,312	02/24/2004	Todd L. DePue	MASL29	2311
37690	7590	05/17/2006		
WOOD, HERRON & EVANS, LLP (LEAR) 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			EXAMINER LAMBELET, LAWRENCE EMILE	
			ART UNIT 1732	PAPER NUMBER

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/708,312	Applicant(s) DEPUE, TODD L.	
	Examiner Lawrence Lambelet	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4, drawn to an automotive interior trim assembly, classified in class 296, subclass 70.
- II. Claims 5-9, drawn to a method, classified in class 264, subclass 255.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process can be used to make toys.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art, requiring a different field of search in view of their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Dorton on 3/23/2006, a provisional election was made without traverse to prosecute Group II, the method of forming an automotive interior trim assembly in a two-shot molding operation, claims 5-9. Affirmation of this election must be made by applicant in replying to this Office action.

Claims 1-4 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

The information disclosure statement (IDS) filed 2/17/2006 and one of the IDS's filed 1/24/2006 fail to comply with 37 CFR 1.98(a)(3) because they do not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. They have been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Hier et al (U.S. Patent Application Publication 2003/0184064) in view of Thomson (U.S. Patent 6,627,134).

Hier et al, hereafter "Hier", discloses a method of forming an automotive interior trim assembly in a two-shot molding operation. This method is shown diagrammatically in Fig's 7 and 8 of the reference. Hier further discloses injecting a first material to form

a substrate and a second material to form a cover member in paragraph [0022]. Hier still further teaches that the second material can be a skin covering both the first material and a third entity, which can be interpreted as formed of a third material. This is illustrated in Fig 6 and described in paragraph [0023]. Hier still further discloses using a polycarbonate/ABS alloy material to form a substrate member in paragraph [0022]. The term "retainer" as used by Hier is understood to correspond to substrate.

Hier does not disclose co-injecting a third material along with the second material in the second shot. Hier also does not disclose the materials used for the cover member, including the outer pliable layer and the inner compressible layer.

Thomson discloses co-injecting two materials in a single shot in the Abstract of the reference. Thomson also discloses covering an inner layer with an outer layer in column 1, lines 23-44. Thomson further teaches using a thermoplastic rubber in an outer layer in Example 4. This teaching meets the limitations of "pliable" in Claim 6 and "thermoplastic elastomer" in Claim 8.

The inner layer of Thomson is described as a foamed core. This description is consistent with a broad interpretation of "thermoplastic elastomer foam", as required by Claim 9, and "compressible", as required by Claim 6.

A person of ordinary skill in the art at the time the invention was made would have found it obvious to form a cover composite, as taught by Thomson, and combine it with a substrate in the method of Hier, and would have been motivated to do so for the simplification of forming a skin/backing composite without the additional step of inserting a component into the mold interim to the cycle. Because both references are

concerned with injection molding, one would have a reasonable expectation of success from the combination.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following documents are cited to further show the state of the art with regard two-shot co-injected automotive interior trim assembly methods:

U.S. Patent 4,470,926 to Potter

U.S. Patent Application Publication 2002/0079603 to Bemis et al

U.S. Patent Application Publication 2002/0041912 to Thomson

U.S. Patent Application Publication 2004/0032055 to Cavallaro et al

U.S. Patent Application Publication 2004/0017023 to Schoemann et al

U.S. Patent 6,899,363 to Dry

U.S. Application Publication 2005/0258569 to Shoemann et al (not prior art, but pertinent)

U.S. Application Publication 2005/0194806 to Cowelchuk et al (not prior art, but pertinent)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Lambelet whose telephone number is 571-272-1713. The examiner can normally be reached on 8 am-4:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571-272-1196. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LEE 


CHRISTINA JOHNSON
PRIMARY EXAMINER
5/15/09